

REMARKS

This is a full and timely response to the non-final Official Action mailed **March 31, 2003** (Paper No. 6). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

By the forgoing amendment, the claim 1 has been amended. Additionally, new claims 25-36 have been added. No original claims have been cancelled. Thus, claims 1-36 are currently pending for the Examiner's consideration.

With regard to the prior art, the Office Action rejected claims 1-3, 7-13, 16-18, 20-22 and 24 as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,574,495 to Caporizzo. ("Caporizzo"). All other examined claims were rejected under 35 U.S.C. § 103(a) as obvious in view of the teachings of Caporizzo, taken alone or in combination with a variety of other prior art references. For at least the following reasons, these rejections are respectfully traversed.

Claim 1 recites:

A method of locating set-top terminals within a cable television system and using location information for said terminals to improve efficient operation of said cable television system, the method comprising:

with a system controller, automatically determining which upstream plant of a plurality of upstream plants transmits a first message to said a system controller from a particular set-top terminal; and

identifying a downstream plant associated with the upstream plant that transmits said first message from said set-top terminal;

wherein a location of said set-top terminal within said system comprises an identification of said upstream plant and said associated downstream plant.

Similar subject matter is recited in independent claims 11 and 20.

In contrast, Caporizzo fails to teach or suggest any part of this method or system for determining a location of a set-top terminal in a system. As the Office Action correctly points out, Caporizzo mentions the use of identification numbers for set-top terminals, the components of which help specify where the terminal physical is within the network topology. (Col. 6, lines 4 *et seq.*). However, Caporizzo fails to teach or suggest anything about how those identification numbers are generated. Presumably, when a technician installs a set-top terminal, the identification number is generated and input into the system.

Caporizzo does not teach or suggest a *system controller* that “automatically determin[es] which upstream plant of a plurality of upstream plants transmits a first message to said a system controller from a particular set-top terminal.” Caporizzo fails to teach or suggest “identifying a downstream plant associated with the upstream plant that transmits said first message from said set-top terminal.”

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. Consequently, because Caporizzo fails to teach or suggest any of the features of independent claims 1, 11 and 20, the rejection of claims 1-24 should be reconsidered and withdrawn.

Claim 3 recites the “method of claim 1, further comprising assigning attributes for said set-top terminal based on said location of said set-top terminal. Claims 13 and 22 recites similar subject matter.

In contrast, Caporizzo fails to teach or suggest assigning attributes based on a terminal's physical location. The Office Action argues that "Caporizzo teaches authorizing access to specific services and channels . . . which reads on assigning attributes for set to terminals. The examiner notes that by assigning characteristics to a particular set top terminal, the set top terminal has a location. Accordingly, Caporizzo teaches, "assigning attributes for said set-top terminal based on said location of said set-top terminal." (Paper No. 6, page 3). Applicant respectfully disagrees.

Claims 3, 13 and 22 recite that the attributes assigned to the set-top terminal are *based on* the terminal's location. In other words, terminals in different locations are assigned different attributes. Caporizzo completely fails to teach or suggest assigning terminal attributes *based on* the terminal's location. The fact that a terminal is assigned attributes and has a location does not dictate a relationship between the attributes and the location such that the attributes are assigned *based on* the location.

Again, a "claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. Consequently, because Caporizzo fails to teach or suggest any of the features of claims 3, 13 and 22, the rejection of these claims should be reconsidered and withdrawn.

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For similar reasons to those given above, the newly added claims are thought to recite subject matter that is clearly patentable over the prior art of record. Thus, examination and allowance of the newly added claims 25-26 is respectfully requested.

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration of the application in light of these remarks is courteously solicited. If any fees are owed in connection with this paper which have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,



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